

1 AN ACT relating to reentry drug supervision.

2 WHEREAS, at least 95% of state inmates will at some time be released back to
3 their communities; and

4 WHEREAS, three-quarters of those returning from prison have a history of
5 substance use disorders; and

6 WHEREAS, two years after completing drug court, drug court graduates have a
7 felony recidivism rate of 9% versus 18% for those convicted of similar offenses who did
8 not enter drug court; and

9 WHEREAS, two years after completing drug court, drug court graduates have a
10 recidivism rate of 20% versus a recidivism rate of 57% for those on probation convicted
11 of similar offenses two years after the probationary period; and

12 WHEREAS, drug court participants receive treatment, drug testing, and case
13 management for \$6,069 per year versus the \$24,389 it costs to incarcerate an inmate per
14 year; and

15 WHEREAS, graduates from drug court have saved the state more than
16 \$101,000,000 in prison costs since inception; and

17 WHEREAS, the reentry drug supervision pilot program is modeled on drug court
18 and intended to act like drug court for those on parole;

19 NOW, THEREFORE,

20 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

21 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO
22 READ AS FOLLOWS:

23 ***As used in Sections 1 to 8 of this Act:***

24 ***(1) "Department" means the Department of Corrections;***

25 ***(2) "Drug" means alcohol or a controlled substance as defined in KRS 218A.010;***

26 ***(3) "Drug supervision session" means a meeting between the reentry team and the***
27 ***participant to discuss the participant's progress through the reentry drug***

1 supervision pilot program;

2 (4) "Participant" means an inmate or parolee selected to participate in the reentry
3 drug supervision pilot program;

4 (5) "Reentry drug supervision pilot program" or "pilot program" means the
5 program created under Section 2 of this Act;

6 (6) "Reentry team" means the team organized under Section 3 of this Act to
7 administer and oversee the reentry drug supervision pilot program; and

8 (7) "Substance use disorder" has the same meaning as in the current edition of the
9 American Psychiatric Association's Diagnostic and Statistical Manual of Mental
10 Disorders.

11 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO
12 READ AS FOLLOWS:

13 (1) The department shall implement a reentry drug supervision pilot program with
14 the goal of restoring lives and reducing recidivism through oversight and
15 behavior modification.

16 (2) The reentry drug supervision pilot program shall last four (4) years and shall:

17 (a) Be administered and overseen by a reentry team organized under Section 3
18 of this Act;

19 (b) Be composed of inmates or parolees placed in the pilot program pursuant to
20 Section 4 of this Act;

21 (c) Consist of two (2) phases as outlined in Section 5 of this Act;

22 (d) Provide a continuum of substance use disorder treatments and
23 rehabilitative services;

24 (e) Monitor participants with frequent drug testing;

25 (f) Implement a coordinated strategy to govern the pilot program's responses to
26 participants' compliance;

27 (g) Require ongoing reentry team interaction with each participant; and

1 (h) Forge partnerships among public agencies and community-based
2 organizations.

3 (3) The department shall monitor and evaluate the reentry drug supervision pilot
4 program to determine:

5 (a) The number of participants who complete the pilot program;

6 (b) Of the participants who complete the pilot program, the number who later
7 have their parole revoked and for what offense or, if no longer on parole,
8 the number who commit new offenses and a description of those new
9 offenses;

10 (c) The number of participants terminated from the pilot program, the reason
11 for their termination, and how long they participated in the pilot program
12 before termination; and

13 (d) Any savings associated from placing participants in the pilot program
14 versus keeping those participants incarcerated.

15 (4) For a total of seven (7) years, the department shall provide an annual report to
16 the Legislative Research Commission and to the Interim Joint Committee on
17 Judiciary by January 1 of each year the reentry drug supervision pilot program is
18 in operation as well as the following three (3) years. The report shall include the
19 data detailed in subsection (3) of this section.

20 (5) The department may promulgate administrative regulations to implement
21 Sections 1 to 8 of this Act.

22 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO
23 READ AS FOLLOWS:

24 (1) The reentry team shall administer and oversee the reentry drug supervision pilot
25 program. The team shall consist of the following members:

26 (a) A department hearing officer shall lead the reentry team and ensure that
27 due process is followed. If reentry team members disagree on incentives or

- 1 sanctions, the hearing officer shall be the final decision maker;
- 2 (b) A parole officer who shall have regular parole officer duties, including drug
- 3 testing and maintaining records;
- 4 (c) A reentry liaison or facilitator from the Division of Probation and Parole;
- 5 (d) A social service clinician;
- 6 (e) A public defender or his or her designated representative who may or may
- 7 not be an attorney; and
- 8 (f) A designated representative from a community mental health center who
- 9 shall provide substance use disorder treatment to participants.
- 10 (2) The Administrative Office of the Courts shall train reentry team members on the
- 11 philosophy behind drug courts as well as their roles within the team.
- 12 (3) The reentry team may provide incentives, including but not limited to the
- 13 following:
- 14 (a) Promotion to the next phase as outlined in Section 5 of this Act;
- 15 (b) Certificates and tokens;
- 16 (c) Compliance credit or any other parole credit approved by the reentry team;
- 17 (d) Decreased supervision;
- 18 (e) Increased privileges and responsibilities;
- 19 (f) Praise from the hearing officer and reentry team;
- 20 (g) Extended curfews; and
- 21 (h) Other individual incentives approved by the reentry team.
- 22 (4) (a) Notwithstanding KRS 439.3108 or 439.340(3)(b) or any other statute to the
- 23 contrary, only the reentry team may impose sanctions on participants who
- 24 do not comply with the requirements and conditions established by the
- 25 reentry team. Notwithstanding KRS 439.3107 or 439.3108 or any other
- 26 statute to the contrary, sanctions include but are not limited to the
- 27 following:

- 1 1. Admonishments by the hearing officer;
- 2 2. Graduated sanctions similar to those adopted by the department
- 3 pursuant to KRS 439.3107;
- 4 3. Community service;
- 5 4. Phase demotion;
- 6 5. Increased pilot program requirements;
- 7 6. Electronic monitoring;
- 8 7. Home incarceration;
- 9 8. Imprisonment in a state or local correctional or detention facility or
- 10 residential center for no more than sixty (60) days in any one (1)
- 11 calendar year; and
- 12 9. Termination from the pilot program.
- 13 (b) When considering appropriate sanctions, the reentry team shall consider
- 14 alternatives to incarceration.
- 15 (c) Notwithstanding paragraph (a) of this subsection, a parole officer may
- 16 arrest a participant without first consulting the reentry team if the parole
- 17 officer believes the participant poses an imminent threat to himself or
- 18 herself or to others. The parole officer shall immediately notify the reentry
- 19 team of the arrest. Upon receiving notification of the arrest, the reentry
- 20 team shall then determine whether to impose additional sanctions.
- 21 (5) Reentry team proceedings shall be confidential and shall be closed unless
- 22 otherwise authorized by the hearing officer. Each reentry team member shall sign
- 23 a confidentiality agreement and shall comply with state and federal
- 24 confidentiality laws regarding treatment information. Documents contained in a
- 25 participant's pilot program case file shall be confidential and only those
- 26 documents that do not violate these state and federal confidentiality laws shall be
- 27 released.

1 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO
2 READ AS FOLLOWS:

3 (1) The department shall implement the reentry drug supervision pilot program
4 created under Section 2 of this Act for inmates or parolees placed in the pilot
5 program pursuant to this section.

6 (2) Inmates or parolees may be referred to the Parole Board as candidates for the
7 pilot program by either the department's Division of Substance Abuse
8 Programming as outlined in subsection (3) of this section or the department's
9 hearing officers as outlined in subsection (4) of this section.

10 (3) (a) After sentencing, the department's Division of Substance Abuse
11 Programming shall conduct a substance abuse assessment of the following
12 inmates:

13 1. Inmates whose offense for which he or she was sentenced:

14 a. Does not qualify him or her as a violent offender as defined in
15 KRS 439.3401 or a sexual offender as defined in KRS 17.550;
16 and

17 b. Did not result in death or serious physical injury of a victim;

18 2. Inmates:

19 a. Who have been convicted of, or entered an Alford plea or plea of
20 nolo contendere to, a Class C or D felony that is:

21 i. A drug offense; or

22 ii. An offense arising from a substance use disorder; or

23 b. Whose probation or parole was revoked due to a substance use
24 disorder or those with a history of substance use disorder; and

25 3. Inmates who have not previously participated in the reentry drug
26 supervision pilot program.

27 (b) After reviewing the substance abuse assessments required under paragraph

1 (a) of this subsection, the department's Division of Substance Abuse
2 Programming shall refer to the Parole Board those inmates determined by
3 the division to be candidates for the reentry drug supervision pilot program.

4 (4) During a preliminary parole revocation hearing, if a department hearing officer
5 suspects a parolee is suffering from a substance use disorder, the hearing officer
6 may order a one (1) month deferment to allow the department's Division of
7 Substance Abuse Programming to conduct a substance abuse assessment of the
8 parolee. After evaluating the assessment, the hearing officer may recommend to
9 the Parole Board that the parolee be placed into the pilot program instead of
10 being revoked.

11 (5) (a) Upon receiving a referral from the department's Division of Substance
12 Abuse Programming pursuant to subsection (3) of this section or from the
13 department's hearing officers pursuant to subsection (4) of this section, the
14 Parole Board shall notify the inmate's or parolee's victims, if any, and
15 provide them an opportunity to submit a written victim impact statement
16 and to testify. The Parole Board shall then evaluate the referred inmate or
17 parolee to determine whether to place him or her in the reentry drug
18 supervision pilot program.

19 (b) When evaluating whether to place a referred inmate or parolee in the
20 reentry drug supervision pilot program, the Parole Board shall consider the
21 following:

- 22 1. Current criminal charges, if any;
- 23 2. Criminal convictions;
- 24 3. Results of the substance abuse assessment conducted pursuant to
25 subsection (3) or subsection (4) of this section;
- 26 4. Plan of recovery created by the department;
- 27 5. Information regarding the victims, if any;

- 1 6. Trial court's recommendation to participate in the pilot program, if
2 any;
3 7. An inmate's or parolee's willingness to participate; and
4 8. Other relevant information as identified by the department.
5 (6) After evaluating the referred inmate or parolee pursuant to subsection (5) of this
6 section, the Parole Board shall determine whether to place an inmate or parolee
7 into the reentry drug supervision pilot program.
8 (7) (a) 1. Notwithstanding KRS 218A.1412 or 439.340 or any other statute to
9 the contrary, if the Parole Board decides to place an inmate in the
10 reentry drug supervision pilot program, the inmate shall immediately
11 be paroled into the pilot program. The only conditions of parole shall
12 be to:
13 a. Have no contact with victims, if applicable;
14 b. Pay restitution, if applicable; and
15 c. Adhere to Sections 1 to 8 of this Act and to the reentry team's
16 requirements and conditions.
17 2. Notwithstanding any statute to the contrary, if the Parole Board
18 decides to place a parolee in the reentry drug supervision pilot
19 program, the parolee shall immediately be entered into the pilot
20 program. The only conditions of parole shall be to:
21 a. Adhere to any special conditions established by the Parole
22 Board; and
23 b. Adhere to Sections 1 to 8 of this Act and to the reentry team's
24 requirements and conditions.
25 (b) Participants shall remain on parole until sentence completion unless the
26 reentry team determines to terminate or administratively discharge the
27 participant from the pilot program. If terminated from the pilot program,

1 the reentry team shall refer the participant to the Parole Board for
2 revocation.

3 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) The reentry drug supervision pilot program shall consist of two (2) phases lasting
6 a minimum of twelve (12) months or until sentence completion, whichever occurs
7 first. Both phases shall occur after the participant is paroled.

8 (2) The first phase is an education phase. For the first phase, the participant shall at
9 a minimum:

10 (a) Provide at least three (3) random drug screens per week;

11 (b) Attend as many group therapy sessions per week as determined necessary by
12 a community mental health center. The community mental health center
13 shall conduct the group therapy sessions;

14 (c) Attend one (1) drug supervision session per week;

15 (d) Obtain and maintain full-time employment, training, or education approved
16 by the reentry team;

17 (e) Obtain and maintain housing approved by the reentry team;

18 (f) Make arrangements for payment of court obligations and any probation
19 and parole fees required by the department;

20 (g) Indicate an appropriate understanding of recovery principles;

21 (h) Attend self-help programs, such as a twelve (12) step program; and

22 (i) Remain drug-free for ninety (90) consecutive days in this phase before
23 consideration for promotion to the second phase.

24 (4) The second phase is the self-motivation phase. For the second phase, the
25 participant shall at a minimum:

26 (a) Provide at least two (2) random drug screens per week;

27 (b) Attend as many group therapy sessions per week as determined necessary by

- 1 a community mental health center. The community mental health center
2 shall conduct the group therapy sessions;
- 3 (c) Attend two (2) drug supervision sessions every two (2) weeks;
4 (d) Maintain full-time employment, training, or education approved by the
5 reentry team;
- 6 (e) Maintain housing approved by the reentry team;
7 (f) Continue paying court obligations and any probation and parole fees
8 required by the department;
- 9 (g) Indicate an appropriate understanding of recovery lifestyle;
10 (h) Continue to attend self-help programs, such as a twelve (12) step program;
11 and
- 12 (i) Remain drug-free for ninety (90) consecutive days in this phase.
- 13 (5) Participants may be ordered during any phase to comply with additional
14 requirements, including but not limited to the following:
- 15 (a) Employment, school, or home visits by the pilot program staff;
16 (b) Domestic violence counseling with a certified domestic violence treatment
17 provider, or other types of counseling, as referred by the reentry team;
18 (c) Curfews as established by the reentry team; and
19 (d) Medical or mental health referrals and subsequent treatment
20 recommendations.
- 21 (6) After successful completion of the second phase, if a participant has not yet
22 completed his or her sentence, the participant shall move from the reentry drug
23 supervision pilot program to regular parole.
- 24 (7) If the reentry team terminates the participant from the pilot program, the
25 participant shall be referred to the Parole Board for revocation. If terminated, the
26 reentry team shall determine whether the participant may receive credit toward
27 the remainder of his or her sentence for the time spent in the pilot program.

1 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO
2 READ AS FOLLOWS:

3 *If reentry drug supervision pilot program participation as outlined in Section 5 of this*
4 *Act is impracticable due to inpatient treatment or similar circumstances in which the*
5 *participant is being monitored by an authorized third party, the participant shall be*
6 *placed in suspended status. Upon release from the authorized third party, the*
7 *participant shall resume participation in the reentry drug supervision pilot program.*
8 *During the time in which the participant is suspended, no credit shall be earned toward*
9 *the completion of the two (2) pilot program phases.*

10 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO
11 READ AS FOLLOWS:

12 *If a participant cannot complete the pilot program through no fault of his or her own,*
13 *he or she may be administratively discharged. If the reentry team determines that*
14 *administrative discharge is appropriate, the department shall determine whether to*
15 *move the participant to regular parole or to refer the participant to the Parole Board*
16 *for revocation. If administratively discharged, the participant shall receive credit*
17 *toward the remainder of his or her sentence for the time spent in the pilot program.*

18 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO
19 READ AS FOLLOWS:

20 *Participants may request voluntary termination from the pilot program. If the reentry*
21 *team determines the request is knowingly and voluntarily made, the participant shall*
22 *be referred to the Parole Board for revocation. If voluntarily terminated, the reentry*
23 *team shall determine whether the participant may receive credit toward the remainder*
24 *of his or her sentence for the time spent in the pilot program.*

25 ➔Section 9. The Department of Corrections shall have until March 2018 to
26 implement the pilot program outlined in this Act.